

COMMONWEALTH OF KENTUCKY
MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. **05-MSRC-007**

COMMONWEALTH OF KENTUCKY,
OFFICE OF MINE SAFETY AND LICENSING

COMPLAINANT

FINAL ORDER for RODNEY MORGAN

HOBERT HOSKINS &
RODNEY MORGAN

RESPONDENTS

* * * * *

This matter having come before the Commission on the Joint Motion to Approve Settlement Agreement between the Complainant, Office of Mine Safety and Licensing (OMSL) and Respondent **RODNEY MORGAN**, and the members of the Commission having reviewed the Settlement Agreement filed on January 5 2006 in the matter herein, and the Commissioners being sufficiently advised,

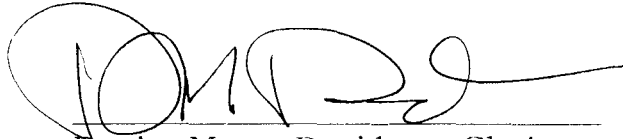
IT IS HEREBY **ORDERED** as follows:

1. The Joint Motion to Approve Settlement Agreement is **GRANTED**;
2. The formal hearing and pre-hearing conference are **CANCELLED**;
3. The **Settlement Agreement** signed by the parties and filed with the Commission is hereby **incorporated by reference** as if reproduced herein in full as a material part of this **FINAL ORDER**.
A copy is attached hereto;

4. This Final Order only resolves the matters referenced herein, and any new enforcement action or subsequent penalties imposed during any probationary period are in addition to and not in lieu of those that may be sought by OMSL for the acts or omissions during that probationary period. This Final Order in no way prohibits OMSL from investigating or filing legal action based upon other activities or omissions by the Respondent not arising from the factual basis of the original violation and resolved herein.
5. This Final Order shall be considered to constitute a “first offense” as that term is defined in 805 KAR 8:010, Section 1(5). Future allegations of separate offenses by Respondent, resulting in an adjudication of guilt by the Commission, shall be deemed “subsequent offenses” as defined by 805 KAR 8:010, Section 1(13);
6. This Final Order represents a final disposition of all issues between the Complainant and the Respondent, in these matters. Failure to comply with the terms and conditions of this Final Order may result in further action by the Commission; and
7. Appellate rights: Pursuant to KRS 351.194(8) and KRS 13B.140(1), an appeal of an order of the Commission must be filed in the Franklin Circuit Court within thirty (30) days of the entry of this Final Order. The petition shall include the names and addresses of all parties of record in this proceeding and shall include a statement of the grounds upon which review is requested. A copy

of this Final Order shall accompany the petition. Copies of the petition must be served upon the Commission and all parties of record in this proceeding.

Entered this the 11TH day of January 2006.

A handwritten signature in black ink, appearing to read 'DM Davidson', written over a horizontal line.

Denise Moore Davidson, Chair
MINE SAFETY REVIEW COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ORDER was served by certified mail, return receipt requested, and by regular mail, postage pre-paid to the following this 12TH day of January 2006:

HOBERT HOSKINS
P.O. BOX 211
STINNETT KY 40868
and
HON EDMOND COLLETT
P.O. BOX 1810
HYDEN KY 41749
Attorney for Petitioner

RODNEY MORGAN
P.O. Box 553
Hyden KY 41749
Respondents

And by messenger mail to:

HON. C. MICHAEL HAINES,
GENERAL COUNSEL
OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
#2 HUDSON HOLLOW
FRANKFORT KY 40601
502/ 564- 2356
FAX 502/ 564 - 9212

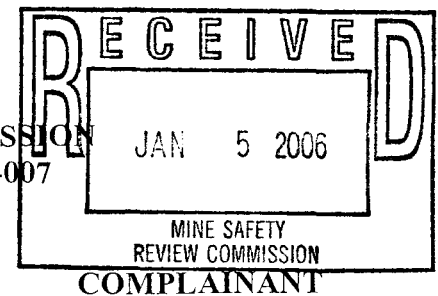
And the original shall be kept on file:

Mine Safety Review Commission
132 Brighton Park Blvd.
Frankfort Ky 40601



Bryon Alan Thompson
General Counsel
Mine Safety Review Commission

KENTUCKY MINE SAFETY REVIEW COMMISSION
ADMINISTRATIVE ACTION NO. 05-MSRC-007



KENTUCKY OFFICE OF MINE SAFETY & LICENSING

V. SETTLEMENT AGREEMENT BETWEEN OMSL & RODNEY MORGAN

HOBERT HOSKINS & RODNEY MORGAN

RESPONDENT

* * * * *

Come the Complainant, the Kentucky Office of Mine Safety & Licensing ("OMSL"), and Respondent Rodney Morgan ("Morgan"), and hereby state that they have agreed to a settlement of the above-styled disciplinary proceeding, according to the following terms:

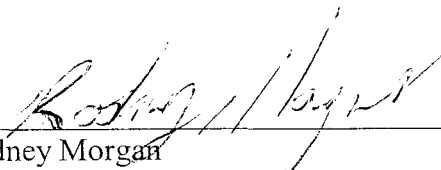
In consideration for the final resolution of this action against him, and the cancellation of the hearing (as it pertains to him) that was scheduled for November 10, 2005, Morgan hereby admits that he was operating a continuous miner and made a deep cut in a crosscut in excess of the approved roof control plan on March 9, 2005 at Yenko Coal Co., Inc.'s No. 1 mine, in violation of KRS 352.201(1) and 352.210, as alleged in OMSL's Complaint. Therefore, Morgan hereby agrees to the following:

1. The probation of his underground miner's certificate () for a period of one (1) year, effective upon the signing of this Settlement Agreement by both parties.
2. During this one-year probationary period, Morgan shall comply with all state and federal mine safety laws and regulations. The willful violation by Morgan of any of said laws or regulations might result in OMSL filing a motion with the Mine Safety Review Commission to revoke his underground miner's certificate for the remainder of the probationary period.

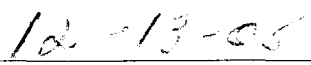
Morgan further agrees that this Settlement Agreement and any final order issued herein by the Mine Safety Review Commission will be considered by the Commission to constitute a "first offence", as that term is defined at 805 KAR 8:010, Section 1(13).

Morgan understands and agrees that he has had the opportunity to retain an attorney to represent him in this matter, but that he has chosen to represent himself. Morgan further states that he has carefully read this Settlement Agreement (or that the Settlement Agreement has been read to him), that he has carefully considered the Agreement prior to signing it, and that he understands and agrees to its terms and provisions.


OMSL and Morgan acknowledge and agree that there are no further promises, inducements, representations, or agreements in connection with this Settlement Agreement other than those expressly set forth in writing herein.



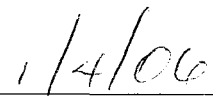
Rodney Morgan
P.O. Box 553
Hindman, Kentucky 41749



DATE



PARIS L. CHARLES, Executive Director
KY Office of Mine Safety & Licensing
P.O. Box 2244
Frankfort, Kentucky 40602



DATE

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Settlement Agreement Between OMSL and Rodney Morgan was mailed this 4TH day of JANUARY, 2006 to:

Rodney Morgan
P.O. Box 553
Hindman, KY 41749



C. MICHAEL HAINES, GENERAL COUNSEL

OFFICE OF LEGAL SERVICES
NATURAL RESOURCES LEGAL DIVISION
KY OFFICE OF MINE SAFETY & LICENSING